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# A BILL FOR AN ACT

RELATING TO INTERISLAND ELECTRIC TRANSMISSION CABLE SYSTEMS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that attaining energy  
2 independence from imported fossil fuels is a long-standing  
3 objective of the State.

4           The legislature finds that interconnecting the islands via  
5 a high-voltage undersea electric transmission cable system would  
6 provide the islands with increased energy security and system  
7 efficiencies and enable the islands to provide each other with  
8 backup power.

9           The legislature further finds that interconnection would  
10 enable Hawaii to make better use of its abundant natural  
11 renewable energy resources such as wind, solar, and geothermal  
12 energy. An inter-island undersea cable system has been  
13 identified as an effective and efficient means to introduce the  
14 variety of utility scale renewable energy available throughout  
15 the Hawaiian islands into a stable grid environment; to  
16 stabilize and equalize rates in all areas served by the cable;  
17 to increase Hawaii's energy independence; to support "increased  
18 energy self-sufficiency where the ratio of indigenous to



1 imported energy use is increased" and "greater energy security  
2 and diversification in the face of threats to Hawaii's energy  
3 supplies and systems"; and to support the achievement of the  
4 renewable portfolio standards established in section 269-92,  
5 Hawaii Revised Statutes, which requires twenty-five per cent of  
6 Hawaii's net electricity sales to come from renewable sources by  
7 2020, increasing to forty per cent by 2030.

8         Despite these predicted benefits, none of the electric  
9 utility systems on any of the Hawaiian islands is interconnected  
10 with electric utility systems on any other island.

11         The purpose of this Act is to establish the regulatory  
12 structure under which interisland undersea transmission cables  
13 can be developed, financed, and constructed on commercially  
14 reasonable terms, such as those upon which successful cable  
15 projects have been undertaken in several locations around the  
16 world. Nothing in this Act is intended to require the  
17 construction of an interisland cable from any particular island.

18         This Act also amends other sections of the Hawaii Revised  
19 Statutes to reflect the existence of a separate and distinct  
20 entity transmitting power to and receiving revenue from an  
21 existing electric utility that is not owned or controlled by  
22 that electric utility.



1 SECTION 2. Chapter 239, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§239- Cable surcharge amounts exempt. Amounts received  
5 in the form of a cable surcharge by an electric utility company  
6 acting on behalf of a certified cable company under section  
7 269-D shall not be deemed gross income of that electric utility  
8 company for purposes of this chapter; provided that any amounts  
9 retained by that electric utility company for collection or  
10 other costs shall not be included in this exemption."

11 SECTION 3. Chapter 240, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 "§240- Cable surcharge amounts exempt. Amounts received  
15 in the form of a cable surcharge by an electric utility company  
16 acting on behalf of an affected certified cable company under  
17 section 269-D shall not be deemed gross receipts for that  
18 electric utility company for purposes of this chapter; provided  
19 that any amounts retained by that electric utility company for  
20 collection or other costs shall not be included in this  
21 exemption."



1 SECTION 4. Chapter 269, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 "PART . INTERISLAND TRANSMISSION SYSTEM

5 **§269-A Definitions.** As used in this part:

6 "Cable acquisition cost" means the electric utility  
7 company's costs, including reasonable transaction costs, to  
8 acquire a high-voltage electric transmission cable system  
9 pursuant to a turnkey cable contract or a cable purchase  
10 contract.

11 "Cable company" means any person or persons, company,  
12 corporation, or entity that is selected through a request for  
13 proposals, or other process approved by the commission, to be a  
14 certified cable company applicant.

15 "Certified cable company" means any person or persons,  
16 company, corporation, or entity who owns or controls a  
17 high-voltage electric transmission cable system and who receives  
18 a certificate of public convenience and necessity from the  
19 commission pursuant to section 269-B.

20 "Commercial operations" means the period after the high-  
21 voltage electric transmission cable system:



1 (1) Passes acceptance tests approved by the commission, as  
2 determined by a qualified independent engineer  
3 approved by the commission; and

4 (2) Meets other criteria the commission determines to be  
5 reasonable.

6 "Commercial operations date" means the date upon which the  
7 high-voltage electric transmission cable system begins  
8 commercial operations, as determined by the commission.

9 "Commission" means the public utilities commission.

10 "Cost-effective" has the same meaning as in section 269-91.

11 "Electric utility company" means a public utility as  
12 defined in section 269-1, for the production, conveyance,  
13 transmission, delivery, or furnishing of electric power.

14 "Electric utility system" means the electric system owned  
15 and operated by an electric utility company, including any  
16 non-utility owned facilities that are interconnected to the  
17 system, consisting of power plants, transmission and  
18 distribution lines, and related equipment for the production and  
19 delivery of electric power to the public.

20 "Energy resources coordinator" or "coordinator" means the  
21 director of business, economic development, and tourism.



1 "High-voltage electric transmission cable system" means one  
2 hundred twenty kilovolts or greater of alternating current or  
3 direct current transmission cables constructed undersea,  
4 including connected transmission cables or lines installed on  
5 land that connect the electric utility systems on two or more  
6 islands or allow for the transmission of power from one or more  
7 energy generation facilities to the electric utility system  
8 located on another island of the State; alternating current  
9 substation or alternating current-direct current converter  
10 station; on-island transmission infrastructure if required;  
11 fiber optic communication cables; and other appurtenant  
12 facilities.

13 "On-island transmission infrastructure" means the  
14 modifications and additions to the existing alternating current  
15 transmission grid on an island and other electric utility system  
16 modifications needed to reliably connect a high-voltage electric  
17 transmission cable system to an electric utility system, and to  
18 reliably accept power transmitted via the high-voltage electric  
19 transmission cable system connecting two or more islands of the  
20 State's electric utility systems.

21 "Power purchase agreement" means an agreement between an  
22 electric utility company and the developer of an energy



1 generation facility to sell the power generated by the facility  
2 to the electric utility company.

3 "Project-on-project financing risk" means the risk involved  
4 when mutually dependent projects, whose risk of completion, and  
5 therefore, financing, are dependent on each other.

6 "Renewable electricity" means electrical energy generated  
7 using renewable energy as the source.

8 "Renewable energy" has the same meaning as in section  
9 269-91.

10 "Renewable energy generation facility" means a facility  
11 generating electrical energy using renewable energy as the  
12 primary source.

13 "Renewable portfolio standard" has the same meaning as in  
14 section 269-91.

15 "Request for proposals" means a request for proposals  
16 issued pursuant to a competitive process authorized, reviewed,  
17 and approved by the commission, and developed and conducted by  
18 the electric utility company or companies to which the capacity  
19 of a high-voltage electric transmission cable system will be  
20 made available, with input and assistance from the state energy  
21 resources coordinator, to select a cable company.



1           **§269-B Certification.** (a) Prior to installing a  
2 high-voltage electric transmission cable system, a cable company  
3 shall be selected through a request for proposals, or other  
4 process approved by the commission. The selected cable company  
5 shall not commence commercial operations of the high-voltage  
6 electric transmission cable system until it is issued a  
7 certificate of public convenience and necessity by the  
8 commission pursuant to section 269-7.5. A certified cable  
9 company shall be subject to regulation by the commission and  
10 defined as a "public utility" under section 269-1,  
11 notwithstanding any law to the contrary.

12           (b) The electric utility company and the energy resources  
13 coordinator, or the energy resources coordinator's designee,  
14 shall develop the request for proposals, and the energy  
15 resources coordinator or the energy resources coordinator's  
16 designee shall be a member of the selection committee that will  
17 review and evaluate the proposals. The electric utility company  
18 shall suspend or terminate the request for proposals at the  
19 discretion of the commission.

20           (c) Notwithstanding any provisions in section 269-7.5 to  
21 the contrary:





- 1           (1) The commission shall approve, disapprove, or approve  
2           subject to certain conditions, an application for a  
3           certificate of public convenience and necessity for a  
4           high-voltage electric transmission cable system, and  
5           shall issue a final order within one hundred eighty  
6           days after the application is filed, provided that the  
7           commission may extend the timeline as necessary;
- 8           (2) In determining whether the cable company is  
9           financially fit, the commission may allow for the use  
10          of commercially reasonable non-recourse project  
11          financing for the high-voltage electric transmission  
12          cable system;
- 13          (3) In determining whether the proposed transmission  
14          capacity service is or will be required by the present  
15          or future public convenience and necessity, the  
16          commission shall determine whether the high-voltage  
17          electric transmission cable system would be a  
18          cost-effective means of:
- 19                (A) Interconnecting two or more electric utility  
20                systems;



1 (B) Helping one or more electric utility companies  
2 meet the applicable renewable portfolio standard;  
3 or

4 (C) Achieving other considerations the commission may  
5 deem appropriate;

6 (4) If the primary source or sources of the renewable  
7 electricity that will be transmitted to an electric  
8 utility company or companies using the high-voltage  
9 electric transmission cable system will be provided  
10 pursuant to a power purchase agreement or agreements  
11 between the electric utility company or companies and  
12 an owner or owners of a new renewable energy  
13 generation facility or facilities, in reviewing and  
14 approving the application for a certificate of public  
15 convenience and necessity, the commission shall, among  
16 other factors, take into consideration:

17 (A) The status of the power purchase agreement or  
18 agreements;

19 (B) The extent to which the project-on-project  
20 financing risk of the high-voltage electric  
21 transmission cable system and the associated  
22 renewable energy generation facilities is



1 materially reduced through agreements between the  
2 certified cable company and the owner or owners  
3 of the renewable energy generation facilities  
4 holding the power purchase agreement or  
5 agreements, or through common ownership  
6 arrangements; and

7 (C) The extent to which the certified cable company  
8 assumes financial responsibility for the  
9 high-voltage electric transmission cable system  
10 until both the cable system and the new  
11 generation facility or facilities have achieved  
12 commercial operations;

13 (5) In the certification process, the commission shall  
14 review and determine ratemaking principles appropriate  
15 and applicable to the high-voltage electric  
16 transmission cable system during commercial  
17 operations. The ratemaking principles shall be used  
18 in determining the certified cable company's revenue  
19 requirement that is used to determine its transmission  
20 capacity charges, and may be used to fix the capital  
21 investment costs for the high-voltage electric  
22 transmission cable system upon which the certified



1 cable company will be allowed to earn an authorized  
2 rate of return and the operating costs that may be  
3 included in the certified cable company's revenue  
4 requirement. Any applicable land costs shall be  
5 included in the determination of the certified cable  
6 company's revenue requirement;

7 (6) In determining the authorized rate of return that will  
8 apply to a certified cable company, the commission may  
9 consider the risks assumed by the certified cable  
10 company related to or resulting from the planning,  
11 financing, construction, and operation of the high-  
12 voltage electric transmission cable system, including  
13 other factors deemed relevant and appropriate by the  
14 commission, such as the terms and conditions of the  
15 transmission tariff as may be approved by the  
16 commission; and

17 (7) Prior to approving the application for a certificate  
18 of public convenience and necessity, the commission  
19 shall hold a public hearing on each island to be  
20 connected by the high-voltage electric transmission  
21 cable system to obtain input from the affected



1 communities about the high-voltage electric  
2 transmission cable system.

3 **§269-C Transmission tariff.** The commission shall, by  
4 order, approve, disapprove, or approve subject to certain  
5 conditions, the tariff of the certified cable company pursuant  
6 to which the certified cable company shall make the capacity of  
7 its high-voltage electric transmission cable system available to  
8 the electric utility company or companies. The tariff shall be  
9 consistent with the tariff provisions provided in the request  
10 for proposals, unless otherwise ordered by the commission. The  
11 tariff shall specify the terms and conditions under which the  
12 certified cable company will be entitled to receive revenues  
13 collected through the cable surcharge, established pursuant to  
14 section 269-D. The certified cable company may submit its  
15 proposed tariff for approval prior to the expected commercial  
16 operations date, and the commission shall take final action on  
17 the proposed tariff within one hundred twenty days after  
18 submittal of the proposed tariff with supporting documentation  
19 as may be required by the commission; provided that the  
20 commission may extend the timeline as necessary.

21 **§269-D Cable surcharge.** (a) The commission shall  
22 establish a cable surcharge to allow recovery of the



1 high-voltage electric transmission cable system costs designated  
2 for recovery according to the ratemaking principles pursuant to  
3 section 269-B.

4 (b) Pursuant to the transmission tariff, the commission  
5 shall, by order, designate the electric utility company or  
6 companies to which the capacity of the high-voltage electric  
7 transmission cable system shall be made available as the agent  
8 of the certified cable company to collect the cable surcharge  
9 approved by the commission. The electric utility company or  
10 companies collecting the cable surcharge for the benefit of the  
11 certified cable company shall have no right, title, or interest  
12 in the moneys so collected. The commission shall approve a fee,  
13 to be collected by the electric utility company or companies  
14 concurrently with the cable surcharge, for acting as the  
15 collection agent for the certified cable company.

16 (c) Notwithstanding any requirements to the contrary, a  
17 high-voltage electric transmission cable system may be deemed  
18 "used or useful for public utility purposes" upon commencing  
19 commercial operations, subject to the commission's determination  
20 and approval.



1           **§269-E Recovery of electric utility company costs.** (a)

2 An electric utility company may recover, through an automatic  
3 rate adjustment clause, its revenue requirement resulting from  
4 the capital costs that it prudently incurs for on-island  
5 transmission infrastructure; provided that the commission has  
6 approved the utility's commitment of capital expenditure costs  
7 for the project.

8           (b) To provide for timely recovery of the revenue  
9 requirement, the commission shall establish a separate automatic  
10 rate adjustment clause for that purpose, or modify an existing  
11 automatic rate adjustment clause. The use of the automatic rate  
12 adjustment clause to recover the revenue requirement shall be  
13 allowed to continue until the revenue requirement is  
14 incorporated in rates in an electric utility company's rate  
15 case.

16           (c) The electric utility company's revenue requirement  
17 shall include:

18           (1) The commission-approved rate of return, as set in the  
19 electric utility company's last rate case, on the  
20 utility's net investment in the high-voltage electric  
21 transmission cable system from the acquisition date of  
22 the high-voltage electric transmission cable system,



1 and in the on-island transmission infrastructure from  
2 the date the on-island transmission infrastructure is  
3 completed and available for service;

4 (2) Depreciation; and

5 (3) Revenue taxes and other relevant costs as approved by  
6 the commission.

7 (d) The electric utility company's net investment includes  
8 costs incurred by the electric utility for planning, permitting,  
9 and constructing the on-island transmission infrastructure,  
10 including an allowance for funds used during construction where  
11 the utility finances the planning, permitting, and construction  
12 costs, less offsets such as accumulated depreciation and  
13 associated unamortized deferred income taxes.

14 (e) The on-island transmission infrastructure shall be  
15 available for service before the commercial operations date of  
16 the high-voltage electric transmission cable system.

17 Notwithstanding any other provision in this chapter to the  
18 contrary, at the time the commission approves the electric  
19 utility company's commitment of capital expenditure costs for  
20 the project, the commission may either:

21 (1) Allow the electric utility company to recover its  
22 approved revenue requirement resulting from the





1 capital costs that it prudently incurs for on-island  
2 infrastructure at the time that the infrastructure is  
3 available for service; or

4 (2) Allow the company to continue to accrue an allowance  
5 for funds used during construction on such prudently  
6 incurred capital costs until the commercial operations  
7 date for the high-voltage electric transmission  
8 system.

9 (f) If the electric utility company elects not to complete  
10 the on-island transmission infrastructure, and the commission  
11 approves this election, or the electric utility company is  
12 precluded from completing construction of the on-island  
13 transmission infrastructure, the electric utility company shall  
14 be allowed to recover reasonable costs determined by the  
15 commission to have been prudently incurred by the electric  
16 utility company with respect to the on-island transmission  
17 infrastructure. The electric utility company shall be allowed  
18 by the commission to recover the reasonable costs through the  
19 cable surcharge over a period equal to the period during which  
20 the costs were incurred or five years, whichever is greater."

21 SECTION 5. Section 235-7, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) There shall be excluded from gross income, adjusted  
2 gross income, and taxable income:

3           (1) Income not subject to taxation by the State under the  
4           Constitution and laws of the United States;

5           (2) Rights, benefits, and other income exempted from  
6           taxation by section 88-91, having to do with the state  
7           retirement system, and the rights, benefits, and other  
8           income, comparable to the rights, benefits, and other  
9           income exempted by section 88-91, under any other  
10          public retirement system;

11          (3) Any compensation received in the form of a pension for  
12          past services;

13          (4) Compensation paid to a patient affected with Hansen's  
14          disease employed by the State or the United States in  
15          any hospital, settlement, or place for the treatment  
16          of Hansen's disease;

17          (5) Except as otherwise expressly provided, payments made  
18          by the United States or this State, under an act of  
19          Congress or a law of this State, which by express  
20          provision or administrative regulation or  
21          interpretation are exempt from both the normal and



1           surtaxes of the United States, even though not so  
2           exempted by the Internal Revenue Code itself;  
3       (6) Any income expressly exempted or excluded from the  
4           measure of the tax imposed by this chapter by any  
5           other law of the State, it being the intent of this  
6           chapter not to repeal or supersede any express  
7           exemption or exclusion;  
8       (7) Income received by each member of the reserve  
9           components of the Army, Navy, Air Force, Marine Corps,  
10          or Coast Guard of the United States of America, and  
11          the Hawaii national guard as compensation for  
12          performance of duty, equivalent to pay received for  
13          forty-eight drills (equivalent of twelve weekends) and  
14          fifteen days of annual duty, at an:  
15       (A) E-1 pay grade after eight years of service;  
16             provided that this subparagraph shall apply to  
17             taxable years beginning after December 31, 2004;  
18       (B) E-2 pay grade after eight years of service;  
19             provided that this subparagraph shall apply to  
20             taxable years beginning after December 31, 2005;



- 1 (C) E-3 pay grade after eight years of service;  
2 provided that this subparagraph shall apply to  
3 taxable years beginning after December 31, 2006;
- 4 (D) E-4 pay grade after eight years of service;  
5 provided that this subparagraph shall apply to  
6 taxable years beginning after December 31, 2007;  
7 and
- 8 (E) E-5 pay grade after eight years of service;  
9 provided that this subparagraph shall apply to  
10 taxable years beginning after December 31, 2008;
- 11 (8) Income derived from the operation of ships or aircraft  
12 if the income is exempt under the Internal Revenue  
13 Code pursuant to the provisions of an income tax  
14 treaty or agreement entered into by and between the  
15 United States and a foreign country; provided that the  
16 tax laws of the local governments of that country  
17 reciprocally exempt from the application of all of  
18 their net income taxes, the income derived from the  
19 operation of ships or aircraft that are documented or  
20 registered under the laws of the United States;



- 1           (9) The value of legal services provided by a prepaid  
2           legal service plan to a taxpayer, the taxpayer's  
3           spouse, and the taxpayer's dependents;
- 4           (10) Amounts paid, directly or indirectly, by a prepaid  
5           legal service plan to a taxpayer as payment or  
6           reimbursement for the provision of legal services to  
7           the taxpayer, the taxpayer's spouse, and the  
8           taxpayer's dependents;
- 9           (11) Contributions by an employer to a prepaid legal  
10          service plan for compensation (through insurance or  
11          otherwise) to the employer's employees for the costs  
12          of legal services incurred by the employer's  
13          employees, their spouses, and their dependents;
- 14          (12) Amounts received in the form of a monthly surcharge by  
15          a utility acting on behalf of an affected utility  
16          under section 269-16.3 [~~shall not be gross income,~~  
17          ~~adjusted gross income, or taxable income for the~~  
18          ~~acting utility under this chapter. Any~~]; provided  
19          that amounts retained by the acting utility for  
20          collection or other costs shall not be included in  
21          this exemption; [~~and~~]



1        (13) Amounts received in the form of a cable surcharge by  
 2        an electric utility company acting on behalf of a  
 3        certified cable company under section 269-D; provided  
 4        that any amounts retained by that electric utility  
 5        company for collection or other costs shall not be  
 6        included in this exemption; and

7        [~~(13)~~] (14) One hundred per cent of the gain realized by a  
 8        fee simple owner from the sale of a leased fee  
 9        interest in units within a condominium project,  
 10       cooperative project, or planned unit development to  
 11       the association of owners under chapter 514A or 514B,  
 12       or the residential cooperative corporation of the  
 13       leasehold units.

14       For purposes of this paragraph:

15                "Fee simple owner" shall have the same meaning as  
 16       provided under section 516-1; provided that it shall  
 17       include legal and equitable owners;

18                "Legal and equitable owner", and "leased fee  
 19       interest" shall have the same meanings as provided  
 20       under section 516-1; and



1 "Condominium project" and "cooperative project"  
2 shall have the same meanings as provided under section  
3 514C-1."

4 SECTION 6. Section 269-30, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§269-30 Finances; public utility fee.** (a) Sections  
7 607-5 to 607-9 shall apply to the public utilities commission  
8 and each commissioner, as well as to the supreme and circuit  
9 courts, and all costs and fees paid or collected pursuant to  
10 this section shall be deposited with the director of finance to  
11 the credit of the public utilities commission special fund  
12 established under section 269-33.

13 (b) There also shall be paid to the public utilities  
14 commission in each of the months of July and December of each  
15 year, by each public utility subject to investigation by the  
16 public utilities commission, a fee equal to one-fourth of one  
17 per cent of the gross income from the public utility's business  
18 during the preceding year, or the sum of \$30, whichever is  
19 greater. This fee shall be deposited with the director of  
20 finance to the credit of the public utilities commission special  
21 fund.



1 (c) Each public utility paying a fee under subsection (b)  
2 may impose a surcharge to recover the amount paid above  
3 one-eighth of one per cent of gross income. The surcharge  
4 imposed shall not be subject to the notice, hearing, and  
5 approval requirements of this chapter; provided that the  
6 surcharge may be imposed by the utility only after thirty days'  
7 notice to the public utilities commission. Unless ordered by  
8 the public utilities commission, the surcharge shall be imposed  
9 only until the conclusion of the public utility's next rate  
10 case; provided that the surcharge shall be subject to refund  
11 with interest at the public utility's authorized rate of return  
12 on rate base if the utility collects more money from the  
13 surcharge than actually paid due to the increase in the fee to  
14 one-fourth of one per cent.

15 (d) Notwithstanding any provision of this chapter to the  
16 contrary, the public utilities commission may, upon the filing  
17 of a petition by a public utility, credit a public utility for  
18 amounts paid under subsection (b) toward amounts the public  
19 utility owes in one call center fees under section 269E-6(f).

20 (e) Amounts received in the form of a cable surcharge by  
21 an electric utility company acting on behalf of a certified  
22 cable company under section 269-D shall not be deemed gross





1 income for that electric utility company for purposes of this  
2 section; provided that any amounts retained by that electric  
3 utility company for collection or other costs shall not be  
4 included in this exemption."

5 SECTION 7. In codifying the new sections added to chapter  
6 269, Hawaii Revised Statutes, by section 4 of this Act, the  
7 revisor of statutes shall substitute appropriate section numbers  
8 for the letters used in designating and referring to the new  
9 sections in this Act.

10 SECTION 8. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on July 1, 2050;  
13 provided that the amendments made to section 235-7, Hawaii  
14 Revised Statutes, in section 5 of this Act shall not be repealed  
15 when that section is reenacted on January 1, 2013, pursuant to  
16 Act 166, Session Laws of Hawaii 2007.



**Report Title:**

Interisland Electric Transmission Cable System

**Description:**

Establishes a regulatory structure for the installation and implementation of an interisland high voltage electric transmission cable system and for the construction of on-island transmission infrastructure. Effective July 1, 2050. (SB2785 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

